

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:
RANDI LYNN SCHINDLER

Serial No. 09/152,992

Filed: September 14, 1998

ABANDONED

RECEIVED

MAY 18 2005

OFFICE OF PETITIONS

MAIL STOP PETITION
FEE
Commissioner for Patents
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Sir:

PETITION FOR ACCESS TO ABANDONED APPLICATION

05/17/2005 SZEWDIE1 00000023 09152992

01 FC:1464

130.00 OP

37 CFR §1.14(h)

PETITION

1. Access to the application file record of the above identified ABANDONED application, which is not within the file jacket of a pending Continuing Prosecution Application, is sought under 37 CFR §1.14(h) in view of the following special circumstances. My law firm has been sued for malpractice in connection with our representation of the inventor in litigation captioned RANDI BLACK v KLEINBERG & LERNER, LLP, et al. in the SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES, Case No. BC332335, the first two pages of which are attached hereto.

PETITION FEE

The petition fee of \$130.00 as provided in 37 CFR §1.17(h) is enclosed
herewith.



MARVIN H. KLEINBERG
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FILED

LOS ANGELES SUPERIOR COURT

APR 28 2005

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CIT/CASE: BC332335 LEA/DEFH;
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Case assigned
to Judge

ERNEST HIROSHIGE

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

RANDI L. BLACK, an Individual,

CASE NO.: BC332335

Plaintiff,

COMPLAINT FOR:

v.

KLEINBERG & LERNER, LLP, a Limited
Liability Partnership, MICHAEL HUREY,
an Individual, and DOES 1 through 25,
inclusive.

- 1.) Legal Malpractice
- 2.) Breach of Fiduciary Duty
- 3.) Fraud
- 4.) Breach of Contract

Defendants.

Plaintiff, RANDI L. BLACK, alleges as follows:

GENERAL ALLEGATIONS

1. Plaintiff, RANDI L. BLACK, previously known as Randi L. Schindler (herein referred to as "BLACK" or "Plaintiff"), is, and at all times mentioned herein was, an individual residing in the County of Los Angeles, State of California and within this Court's jurisdiction.
2. Plaintiff is informed and believes and thereon alleges that Defendant, KLEINBERG & LERNER, LLP ("KLEINBERG LERNER"), was at all times mentioned herein a Limited Liability Partnership engaged in, and properly and duly licensed in the practice of law in the County of Los Angeles, State of California.
3. Plaintiff is informed and believes and thereon alleges that Defendant, KLEINBERG LERNER, was at all times mentioned herein a law practice engaged in, and properly and duly licensed in, the practice of "Patent, Trademark, Copyright, Unfair Competition

ORIGINAL

1 & Related Intellectual Property Matters."

2 4. Plaintiff is informed and believes and thereon alleges that Defendant, MICHAEL
3 HUREY ("HUREY"), was at all times mentioned herein an attorney at law, practicing in, engaged
4 in, and properly and duly licensed in the County of Los Angeles, State of California.

5 5. Plaintiff is informed and believes and thereon alleges that HUREY was at all times
6 mentioned herein employed by and/or a partner with KLEINBERG LERNER.

7 6. Plaintiff is informed and believes and thereon alleges that HUREY, was at all
8 times mentioned herein an attorney engaged in, and properly and duly licensed in, the practice of
9 Patent, Trademark, Copyright, Unfair Competition & Related Intellectual Property Matters.

10 7. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as
11 DOES 1 through 25, inclusive, and therefore sues these Defendants by such fictitious names.
12 Plaintiff will amend this complaint to allege their true names and capacities when ascertained.
13 Plaintiff is informed and believes and thereon alleges that each of the fictitiously named
14 Defendants is negligently responsible in some manner for the occurrences herein alleged, and that
15 Plaintiff's losses as herein alleged were proximately caused by such negligence.

16 8. Plaintiff is informed and believes and thereon alleges that in performing the acts
17 hereinafter alleged, Defendants, and each of them, were acting as the agents and representatives of
18 each of the other named Defendants, and in performing said acts, the Defendants, and each of
19 them, were operating within the scope of their real and/or apparent authority as agents, and each
20 of the Defendants named herein ratified, approved and caused the acts of the other Defendants
21 which are hereinafter alleged.

22 9. In or about early September 1998, Plaintiff retained Defendants, and each of them,
23 to draft, file and prosecute a patent application on Plaintiff's behalf in the U.S. Patent &
24 Trademark Office ("PTO").

25 10. Defendants filed said patent application on Plaintiff's behalf on or about
26 September 18, 1998 under Serial Number: 09-152,992 ("Subject Application").

27 11. Plaintiff is the sole inventor of the invention identified in the Subject Application.

28 12. On November 9, 1999, the PTO issued a Notice of Abandonment pertaining to the